

FILE OF COUNCIL
ADOPTED NOVEMBER 6, 2012
EFFECTIVE JANUARY 2, 2013
No. I {2013}
HOME RULE CHARTER

MAYOR Jason C. Klush, IN PLACE

January 16, 2013

ATTACHED: (DOWNLOADED IN SCANS)

ATTEST:

CITY ADMINISTRATOR

APPROVED:

MAYOR

H. JEREMY PACKARD, CHAIRMAN
THOMAS J. BALDINO, PhD.
JOHN F. NEWMAN
JOHN C. RUCKNO
BARBARA J. WILLIAMS
LUZERNE COUNTY
BOARD OF ELECTIONS & REGISTRATION

MICHAEL I. BUTERA, ESQ.
SOLICITOR TO THE BOARD OF ELECTIONS



**LUZERNE COUNTY
BUREAU OF ELECTIONS**

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MARISA CRISPELL
DIRECTOR OF ELECTIONS

JAN - 2 2013

DATE: December 12, 2012
TO: Pittston City
FROM: Luzerne County Election Bureau
RE: Referendum Certification

Below you will find the certification from the Luzerne County Bureau of Elections of votes cast for the Pittston City Referendum.

We hereby certify that the following is a true and correct statement of the Returns of the votes cast at the General Election held on November 6, 2012 for the Pittston City Referendum as the same remains on file in this office.

Covers: Pittston City Ward 01
Pittston City Ward 02
Pittston City Ward 03
Pittston City Ward 04
Pittston City Ward 05
Pittston City Ward 06

Pittston City Home Rule Referendum:

"Shall the Home Rule Charter contained in the report, dated August 27, 2012, of the Government Study Commission, prepared in accordance with the Home Rule Charter and Optional Plans Law, be adopted by Pittston City?"

<u>Votes Cast:</u>	YES	1,662
	NO	1,028

Luzerne County Bureau of Elections

H. Jeremy Packard
Thomas J. Baldino
John C. Ruckno
John F. Newman
Barbara J. Williams

ATTEST:

Marisa Crispell
Marisa Crispell
Director of Elections



**CITY
OF
PITTSTON**

HOME RULE CHARTER

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PREAMBLE

The citizens of Pittston City have the privilege, right and responsibility to participate in all aspects of City government and have come together with a desire and willingness to improve their government through the enactment of this Charter.

This Charter shall guide Pittston for years to come and has addressed the inefficiencies and ineffectiveness in our government which have arisen over the years.

We, the people of Pittston City, agree to uphold and enforce the principles embodied in this Charter with the full force of law.

ARTICLE I

APPLICABILITY AND POWERS OF THE CITY

§ 1.01 Applicability.

This Charter shall apply to the City of Pittston, Luzerne County, Pennsylvania, which shall include all territory within the boundaries of the City at the time when this Charter shall take effect, and all territory that may lawfully be added to the City at any time thereafter.

§ 1.02 Powers of the City.

The City shall have all powers possible for a home rule municipality under the Constitution and laws of the Commonwealth of Pennsylvania as fully and completely as though they were specifically enumerated in this Charter.

§ 1.03 Construction.

The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers in this Charter shall not be construed as limiting in any way the general power stated in this article.

§ 1.04 Intergovernmental Relations.

The City may participate by contract or otherwise with any governmental entity of this state or any other state or states of the United States in the performance of any activity which Pittston City and one or more of such other entities has the authority to undertake.

- E. To adopt, amend, and/or repeal motions, resolutions, ordinances and other materials of legislative intent.
- F. Shall appoint all department heads, except Police Chief, and non-staff municipal appointees.
- G. May overturn a termination of a City employee by the City Administrator by a supermajority, or a minimum of four (4), votes of City Council.
- H. To make or cause to be made such studies, audits and investigations as it deems to be in the best interest of the City.
- I. To approve the payment of bills.

§ 2.06 Salaries.

Initial annual salary compensation for a member of City Council shall be two-thousand five hundred dollars (\$2,500) per annum. The salary for a member of City Council shall not be less than two-thousand five hundred dollars (\$2,500) per annum. Any change in compensation of City Council shall only become effective for any member of City Council following the expiration of the term of their current seat. Members of City Council shall receive no other City compensation, direct or indirect; they shall receive no reimbursements for expenses unless previously approved by City Council and the Mayor at a public meeting; and they shall receive no pensions, personal or family insurances, unless otherwise required by law, nor other forms of fringe benefits. City Council shall have the power to fix the salary compensation of its members by Ordinance.

§ 2.07 Prohibitions.

No member of City Council, during their City Council term, shall hold any other elected public office. No member of City Council shall be employed by the City whether paid or unpaid.

§ 2.08 Vacancies.

The office of member of City Council shall become vacant through death, resignation or forfeiture. Forfeiture occurs when a member of City Council lacks the qualifications of the offices as defined by the Charter or violates an express prohibition of the Charter.

§ 2.09 Filling of Vacancies.

The City Council shall, by an affirmative vote of a majority of the remaining members of City Council, fill any vacancy in the office of member of City Council. Should this process fail, for any reason whatsoever, to fill a vacancy within forty-five (45) days after the vacancy occurs, then the Court of Common Pleas shall fill the vacancy.

Any person filling a City Council vacancy shall be an elector that meets all of the Charter's qualifications for City Council membership regardless of political affiliation.

The person appointed to fill a vacancy shall take office immediately upon appointment and shall fill the term only until the next municipal election at which time the unexpired term, if applicable, shall be filled by the electors of the City.

§ 2.10 Organization.

The City Council shall meet to organize on the first Monday of January of each even-numbered year. If the first Monday is a legal holiday, the City Council shall meet to organize the next day following the holiday.

The Mayor shall serve as Chairperson at the organization and all meetings of City Council. The City Council at this organization meeting shall elect from its membership a Vice-Chairperson. The Chairperson or, in his/her absence, the Vice-Chairperson shall preside at all meetings of City Council. Whenever any action by the City Council shall result in a specific written contract or agreement or requirement for a signature from City Council, the Chairperson or, in his/her absence, the Vice-Chairperson shall be authorized to and shall affix his/her signature as necessary.

§ 2.11 Meetings.

The City Council shall convene a regular Business Meeting at least once a month. All meetings of the City Council shall be open to the public. All regular meetings must occur at or after 6:00 P.M. A meeting can only be held if at least three (3) members of City Council are physically in attendance which shall constitute a quorum. A special meeting may be called if notice is published in a newspaper of general circulation twenty-four (24) hours in advance of said meeting.

§ 2.12 Ordinances.

- A. Notice of legislation considered for adoption as an ordinance must be advertised as per the advertising requirements of the Third Class City Code, as amended time from time, prior to consideration of adoption. The City Administrator shall be responsible for the legal notice to be published. Ordinances shall only require one reading prior to consideration of action by City Council regardless of requirements in the Third Class City Code unless required otherwise by a uniform, applicable law.
- B. Ordinances and other legislation shall require a majority vote of those members present of City Council to be considered passed and adopted.
- C. Legislation shall take effect as defined by the individual ordinance.

§ 2.13 Emergency Ordinances.

Upon written declaration by the Mayor that an emergency exists within the City, City Council may, without regard to any other provisions contained in §2.12, adopt a related ordinance upon the affirmative and majority vote of at least three (3) members of City Council who shall be physically present at a meeting of City Council. The ordinance shall become effective immediately upon its adoption and shall cease to be effective upon the Mayor's declaration the emergency has ceased or on the thirtieth (30th) day following its adoption, whichever shall occur first.

§ 2.14 Recording.

All ordinances and resolutions of the City shall be entered, as approved, in the record books of the City. The record books shall be open and available to the public for inspection during posted business hours. The books shall be in the custody and control of the City Administrator. All entries shall be made by the City Administrator. All ordinances and resolutions having legislative effect shall be codified.

§ 2.15 Residents' and Taxpayers' Right To Be Heard.

City Council shall provide reasonable opportunity for interested residents, taxpayers and interested parties to address the City Council and Mayor at all meetings.

ARTICLE III

MAYOR

§ 3.01 Executive Power.

Defined executive powers of the City shall be vested in the Mayor.

§ 3.02 Election and Term.

The Mayor shall be elected at-large by the electors of the City to a four (4) year term. The term of office shall begin on the first Monday in January next following the election. If the first Monday is a legal holiday, the term of office shall begin the next day following the holiday.

§ 3.03 Qualifications.

The Mayor shall be an elector of the City, at least the age of eighteen (18) and shall have been a resident continuously in the City for at least three (3) years immediately preceding his/her election and must maintain all qualifications through the duration of his/her term.

§ 3.04 Powers and Duties.

The Mayor shall be responsible for the supervision of the City Administrator and shall have powers and duties, including but not limited to the following:

- A. The duty to enforce the Charter and ordinances of the municipality and the laws of the Commonwealth of Pennsylvania and the United States of America.
- B. The duty to make and submit a monthly report to City Council and the public for the regularly scheduled Business Meeting of City Council of the work being done and on the conditions and needs of the City.
- C. The power to make recommendations for action by City Council as deemed in the best interest of the public.
- D. Shall have a vote equal to a City Council member on all voting matters acted upon by City Council.
- E. Shall be the Chairperson of City Council and preside at all meetings.
- F. Shall be the direct supervisor of the City Administrator.
- G. Shall have the authority and power to officiate weddings.
- H. Shall set the agenda for the City Council Meeting.
- I. Shall have the sole discretion to appoint, remove, demote or terminate the Chief of Police.
- J. The power to declare a state of emergency in the event of a natural disaster or force majeure. In order to enable the mayor to effectually preserve the public peace within the city, all the powers which are devolved by the laws of this Commonwealth upon sheriffs, to prevent and suppress mobs, riots, and unlawful and tumultuous assemblies, are hereby conferred upon the mayor. When the mayor considers that a state of emergency exists, the mayor may issue such a proclamation, which shall be in writing and copies of which shall be made available to all news media, and to each member of City Council declaring a state of emergency for a period not to exceed five days, unless extended by action of City Council. In the case of a declaration of a state of emergency by the mayor for either a citywide or site-specific emergency, city agencies may temporarily implement their emergency assignments without regard to procedures required by other laws pertaining to the incurring of obligations and the employment of temporary workers. In the proclamation the mayor may prohibit, for all or any part of the city in which there is a clear and present danger to life or property through civil disorder;

- (1) Any person being on the public streets, or in the public parks or at any other public place during the hours declared by the mayor to be a period of curfew;
- (2) The assembling or gathering of a group of people, in such numbers to be designated by the mayor, upon the public streets, parks or other public places;
- (3) The entry or departure of persons into or from any restricted area;
- (4) The sale, purchase, or dispensing of any commodities or goods, as designated by the mayor;
- (5) The transportation, possession or use of gasoline, kerosene, or other combustible, flammable or explosive liquids or materials, except in connection with the normal operation of motor vehicles, normal home use, or legitimate commercial use;
- (6) Any other such activities as the mayor reasonably believes should be prohibited to help preserve life, health, property or the public peace.

The proclamation shall describe any restricted area with particularity and shall specify the hours during which such restrictions are to be in effect.

Any person violating such proclamation of emergency shall be guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine not to exceed three hundred dollars (\$300) or to undergo imprisonment not to exceed thirty (30) days, or both.

§ 3.05 Salary.

City Council shall from time-to-time fix and determine the compensation of the Mayor, which during his/her current term of office shall neither be increased nor decreased. No change in the compensation of the Mayor shall be adopted by ordinance less than twelve (12) months prior to the commencement of a new term of office of the Mayor. The Mayor shall receive no other City compensation, direct or indirect, and shall receive no pension or other form of fringe benefits.

The initial total compensation of the Mayor shall be Three Thousand dollars (\$3,000) per annum. The salary of the Mayor shall not be less than three thousand dollars (\$3,000) per annum.

§ 3.06 Prohibitions.

The Mayor, during his/her term, shall not hold any other elected public office. The Mayor cannot be employed by the City whether paid or unpaid.

§ 3.07 Vacancies.

The office of Mayor shall become vacant through death, resignation or forfeiture. Forfeiture occurs when a Mayor lacks the qualifications of the offices as defined by the Charter or violates an express prohibition of the Charter.

§ 3.08 Filling of Vacancies.

- A. In the event of a permanent vacancy, the City Council shall, by a majority vote of the total number of the City Council members which shall be three (3) affirmative votes, fill a vacancy within the office of Mayor. Should the City Council fail to reach a majority vote or if City Council fails, for any reason whatsoever, to fill a vacancy within forty-five (45) days after the vacancy occurs, then the Court of Common Pleas shall fill the vacancy.

Any person filling the vacancy may be an elector that meets all of the Charter's qualifications for the Office of the Mayor regardless of political affiliation.

The person appointed to fill a vacancy shall take office immediately upon appointment and shall fill the term only until the next municipal election at which time the unexpired term, if applicable, shall be filled by the electors of the City.

- B. The City Council Vice-Chairperson shall provisionally fulfill the duties of the office of Mayor in the event of a temporary incapacitation of the Mayor.

ARTICLE IV

CITY ADMINISTRATOR

§ 4.01 Hiring and Appointment of City Administrator.

There shall be a City Administrator who shall be hired and appointed by the City Council and chosen on the merits of his/her executive and administrative qualifications and experience. The City Administrator shall serve the City on a full-time basis and shall be responsible directly to the Mayor. The City Administrator shall serve for an indefinite term.

§ 4.02 Qualifications.

The City Administrator shall be chosen on the basis of executive and administrative qualifications and experience. The City Administrator shall reside within a twenty (20) mile radius of the City boundaries within one (1) year of appointment and shall reside within that radius for the duration of his/her appointment. A candidate for the position of City Administrator shall have a Bachelor's Degree in Public Administration or related field and three (3) years experience of business or government administration or absent a degree, eight (8) years experience of business or government administration with a pattern of progressively more responsible positions.

§ 4.03 Prohibitions.

The City Administrator shall not hold any other public or political office during his/her tenure.

§ 4.04 Powers and Duties.

The City Administrator shall have all administrative powers and duties over the operations of the City including, but not limited to, the following:

- A. Shall direct and supervise the activities of the departments and employees of the City pursuant to City policies.
- B. Shall prepare the annual budget(s).
- C. Shall receive, review and evaluate job applications, conduct interviews and make hiring, disciplinary and termination decisions.
- D. Shall forward termination decisions to City Council who shall have the ability to overturn a termination with a supermajority (minimum 4) vote.
- E. Shall administer the personnel policy and procedures.
- F. Shall be responsible for the establishment and maintenance of an accounting system, which shall be designed to accurately reflect the assets, liabilities, receipts, and expenditures of the City.
- G. Shall be responsible for the disbursement of all City funds and the preparation of monthly financial reports to be provided to the Mayor and City Council.
- H. Shall administer the purchasing policy and program.
- I. Shall be responsible for the financial administration of the City.
- J. Shall fix the amount of bonds of officers and employees.
- K. Shall attend all regularly scheduled meetings of the City Council.
- L. Shall submit regular, formal reports to City Council and the Mayor.
- M. Shall be responsible for the proper execution of all policies set forth in the Administrative Code.
- N. Shall be responsible for all publishing and advertising requirements.

- O. Shall be responsible to record meeting minutes, resolutions, ordinances and other documents.
- P. Shall be responsible to receive and send correspondence of and for the City.
- Q. Shall administer oaths.
- R. Shall certify records and documents.
- S. Shall attest signatures and certify ordinances and resolutions.
- T. Shall have the authority to approve contracts less than five thousand dollars (\$5,000). City Council shall, at least every five years, review and increase this amount as necessary and appropriate by ordinance.
- U. Shall perform and/or be responsible for any and all other duties as may be required by the City Council, this Charter and the Administrative Code.

§ 4.05 Salary.

Base salary for the City Administrator shall not be less than sixty-five thousand dollars (\$65,000) annually. The minimum base salary shall be reviewed by City Council every five (5) years and adjusted as appropriate, by ordinance, but shall never be less than sixty-five thousand dollars (\$65,000).

The City Administrator's salary may be adjusted, from time to time, by resolution.

§ 4.06 Termination.

City Council may terminate the City Administrator by providing the City Administrator the reasons for termination in writing fifteen (15) calendar days prior to the effective date. The City Administrator shall have the opportunity to address City Council at a public hearing and respond to the issues set forth for his/her dismissal if so desired by the City Administrator. The City Council must vote to terminate the City Administrator by a supermajority vote of the entire City Council, which shall be four (4) affirmative votes, in order for the termination to become effective.

ARTICLE V

SOLICITOR

§ 5.01 Appointment and Qualifications of Solicitor.

The City Council shall appoint a solicitor by majority vote for an indefinite period. The solicitor

shall be a person or firm of persons licensed to practice law in Pennsylvania. The City Council may remove the solicitor by majority vote at any time, with or without cause.

§ 5.02 Powers and Duties.

The Solicitor shall be the chief legal officer of the City and shall furnish legal advice to the Mayor, City Council and City Administrator concerning any matter arising in connection with the exercise of their official powers and duties. The Solicitor shall have the right to access the records of any officer, department, board, or commission of the City as necessary in the performance of his/her duties.

The Solicitor shall have other powers and duties as directed by the City Council.

§ 5.03 Compensation.

The City Council shall set the compensation of the Solicitor.

§ 5.04 Prohibitions

The Solicitor shall not hold any public office of any kind and shall not hold a political office within Pittston City.

ARTICLE VI

ENGINEER

§ 6.01 Appointment and Qualifications of Engineer.

The City Council, shall appoint an Engineer for an indefinite period. The Engineer shall be a person or firm of persons that shall be a registered engineer in civil engineering licensed in the Commonwealth of Pennsylvania. The City Council may remove the engineer at any time, with or without cause with approval by a majority vote of the total number of City Council.

§ 6.02 Powers and Duties.

The Engineer shall have the superintendence, direction and control of the civil engineering matters of the City at the direction of the City Council and exercise other powers and duties as assigned or directed by the City Council.

§ 6.03 Compensation.

The City Council shall set the compensation of the Engineer.

§ 6.04 Prohibitions.

Prohibitions shall only apply if an individual is appointed as the engineer. If a firm of persons is appointed then the following prohibitions shall not apply.

An individual serving as engineer shall not hold any public office and shall not hold a political office within Pittston City.

ARTICLE VII

AUTHORITIES, BOARDS, COMMISSIONS AND COMMITTEES

§ 7.01 Appointment.

The City Council shall appoint the members of authorities, boards, commissions and committees of the City. All such appointments shall serve at the pleasure of the City Council except where a definite term has been established by law. If a vacancy occurs, the City Council shall make the appointment to fill the vacancy.

§ 7.02 Qualifications.

Appointees shall be at least eighteen (18) years of age.

ARTICLE VIII

TREASURER/TAX COLLECTOR

§ 8.01 Election and Term.

The City Treasurer shall be elected at-large by the electors of the City to a four (4) year term. The City Treasurer shall also be the Tax Collector. The first election under the home rule Charter shall be during the municipal election of 2015 and then occur every four (4) years. The term of office shall begin on the first Monday in January next following the election. If the first Monday is a legal holiday, the term of office shall begin the next day following the holiday.

§ 8.02 Qualifications.

The City Treasurer shall be an elector of the City, a competent accountant, must be bondable, at least the age of eighteen (18), shall have been a resident continuously in the City for at least three (3) years immediately preceding his/her election and must maintain all qualifications through the duration of his/her term.

§ 8.03 Powers and Duties.

- A. The City Treasurer shall demand and receive all moneys payable to the city from whatever source, and shall issue a receipt in every case to the person making such payment, and shall pay all warrants duly countersigned by the City Administrator and the city controller. All receipts for money received on behalf of the city by the treasurer shall be numbered serially and made in duplicate at least, and all such duplicates shall daily, not later than the next succeeding business day, be transmitted by the City Treasurer to the City Controller.
- B. The accounts of the City Treasurer shall be kept in such manner as to clearly exhibit all the items of receipts of the city, and the sources from which the moneys are received. The City Treasurer shall keep separate and distinct accounts of the receipts of the City and of every special fund.
- C. The City Treasurer shall keep the public funds in such banks or financial depositories as City Council may direct, under such restrictions and safeguards as City Council may provide, and shall verify the accounts whenever required, to the satisfaction of City Council. No City Treasurer complying with the provisions of this section and any ordinance of the City, nor his surety or sureties, shall be chargeable with losses of City funds caused by the insolvency or negligence of any such city depositories.
- D. The City Treasurer shall, upon the termination of his/her office, deliver to the City or to his/her duly qualified successor all moneys, accounts, property or effects in his/her possession belonging to the City.
- E. The City Treasurer, by virtue of the office, shall be the Tax Collector of the City and may be the collector of county, school, and institution district taxes, assessed or levied in the City by the proper authorities therein.
- F. The City Treasurer shall hire the employees of the Treasurer/Tax Collector's office only after City Council has declared an employment vacancy in the office. The City Treasurer shall hire based on City Council and City Administrator policy. City Council shall set the salary and benefits compensation of all employees.
- G. The City Treasurer shall have operational oversight of the office, based on City Council/City Administrator policy, however the employees of the office shall report directly to the City Administrator as provided for in §4.04.

§ 8.04 Salary.

City Council shall from time-to-time fix and determine the compensation of the City Treasurer/Tax Collector, which during his/her current term of office shall neither be increased nor decreased. No change in the compensation of the City Treasurer/Tax Collector shall be adopted by ordinance less than twelve (12) months prior to the commencement of a new term of

office. The City Treasurer/Tax Collector shall receive no other City compensation, direct or indirect, and shall receive no pension or other form of fringe benefits.

The initial total compensation of the City Treasurer/Tax Collector shall be fourteen thousand five hundred dollars (\$14,500) per annum. The salary of the City Treasurer/Tax Collector shall not be less than fourteen thousand five hundred dollars (\$14,500) per annum.

§ 8.05 Prohibitions.

The City Treasurer during their term shall not hold any other elected public office. The City Treasurer shall not be employed by the City whether paid or unpaid.

ARTICLE IX

CONTROLLER

§ 9.01 Election and Term.

The City Controller shall be elected at-large by the electors of the City to a four (4) year term. There shall be an election for this office held during the municipal election of 2013. The term of office shall begin on the first Monday in January next following the election. If the first Monday is a legal holiday, the term of office shall begin the next day following the holiday.

The office, position, powers and duties shall cease at the expiration of the next term on December 31, 2017. Thereafter the position shall be sunset (or eliminated) and any powers or duties entrusted to the City Controller in this Charter not being performed by the Independent Auditor shall be placed under the responsibility of the City Administrator.

§ 9.02 Qualifications.

The City Controller shall be an elector of the City, must be bondable, at least the age of eighteen (18), shall have been a resident continuously in the City for at least three (3) years immediately preceding his/her election and must maintain all qualifications through the duration of his/her term.

§ 9.03 Powers and Duties.

- A. The City Controller may examine, audit and settle all accounts whatsoever in which the city is concerned, either as debtor or creditor, and shall also, annually or as often as he desires or is directed to do so by City Council, examine and audit the accounts of all bureaus, officers, and departments which collect, receive, and disburse public moneys, or who are charged with the management, control, or custody thereof, and in every case he may make report of such examination, audit and settlement to the City Council. He may

likewise audit and report upon the accounts of any such officer upon the death, resignation, removal or expiration of the term of the said officers.

- B. The City Controller may likewise audit, or with the consent of City Council cause to be made by an accountant an annual audit of, all the accounts of any municipal officer in any department of the City government who may be charged with the duty, or who may perform the services, of receiving and disbursing the funds of any association, society, or organization of municipal employees or persons, directly or indirectly connected with the municipal government, for the benefit, relief, or pensioning of firemen, policemen, or other municipal employees or persons as aforesaid.
- C. All such audits shall be made within as short a time as possible after the close of the fiscal year, and be annually reported to City Council at its first meeting in March, as other reports of the City Controller are made, and shall be filed with the court of quarter sessions within ninety days of the close of the fiscal year.
- D. City Council may provide for an audit of any or all accounts by an independent auditor.
- E. The City Controller may have the power to administer oaths or affirmations in relation to any matter touching the authentication of any account, claim, or demand of or against the City, but shall not receive any fee therefore, and may countersign all warrants for the payment of moneys out of the city treasury when satisfied of the legality of such payment.
- F. The City Controller may have power to issue subpoenas to obtain the attendance of officers whose accounts he is authorized to adjust, audit, and settle, and also to subpoena any person or persons whom it may be necessary to examine as witnesses, and in case any City officer or any witness refuses to appear upon being subpoenaed, he shall report such refusal to City Council, and the City Council is hereby empowered to enact ordinances to compel the attendance of City officers and witnesses before the said City Controller and to impose penalties in case of refusal.
- G. In case of the sickness, absence, or inability of a City Controller, the City Council may appoint a Deputy Controller to serve during the sickness, absence, or inability of such controller, who shall furnish such bond, and receive such compensation, as shall be fixed by the City Administrator.

§ 9.04 Salary.

Initial annual salary compensation for City Controller shall be two-thousand five hundred dollars (\$2,500) per annum. Any change in compensation of City Council shall automatically apply to the City Controller and only become effective for the City Controller following the expiration of the term of the current seat. The City Controller shall receive no other City compensation, direct or indirect; shall receive no reimbursements for expenses unless previously approved by City Council and the Mayor at a public meeting; and shall receive no pensions, personal or family insurances, unless otherwise required by law, nor other forms of fringe benefits.

§ 9.05 Prohibitions.

The City Controller during their term shall not hold any other elected public office or employment with the City whether paid or unpaid.

ARTICLE X

INDEPENDENT AUDITOR

§ 10.01 Appointment and Qualifications.

The City Council shall hire and appoint the Independent Auditor. The Independent Auditor shall be a person or firm of persons that shall be at least a Certified Public Accountant (CPA).

§ 10.02 Responsibilities and Duties.

The Independent Auditor shall have the responsibilities and duties including but not limited to the following:

- A. Shall examine, audit and settle all accounts whatsoever in which the city is concerned, either as debtor or creditor, and shall also, annually or as often as directed to do so by the City Council or City Administrator, examine and audit the accounts of all bureaus, officers, and departments which collect, receive, and disburse public moneys, or who are charged with the management, control, or custody thereof, and in every case shall report of such examination, audit and settlement to the City Council. The Independent Auditor shall likewise audit and report upon the accounts of any such officer upon the death, resignation, removal or expiration of the term of the said officers.
- B. Shall audit all the accounts of any municipal officer in any department of the City government who may be charged with the duty, or who may perform the services, of receiving and disbursing the funds of any association, society, or organization of municipal employees or persons, directly or indirectly connected with the municipal government, for the benefit, relief, or pensioning of firemen, policemen, or other municipal employees or persons as aforesaid.
- C. All such audits shall be made within as short a time as possible after the close of the fiscal year, and be annually reported to the Mayor and City Council at its first meeting in March.
- D. Shall make a report to the Mayor and City Council, at its first meeting in March in each year, of the audits which shall have made of the accounts of the officers

having charge, custody, control or disbursement of such public moneys and other funds, showing the balance in their hands respectively, and, within ninety days of the close of the fiscal year, the independent auditor shall file a copy of the said Annual Report to Mayor and City Council with the Department of Community and Economic Development. It shall be lawful for the City or any taxpayer thereof on its behalf or any officer whose account is settled or audited to appeal from the settlement or audit to the Court Of Common Pleas of Luzerne County within forty-five (45) days after the said annual report to the Mayor and City Council has been filed. If the appellant is a taxpayer or any officer charged as aforesaid, he shall file a bond, with one or more sufficient sureties, conditioned to pay all costs thereafter accruing in case a decision shall not be obtained more favorable to the party on whose behalf the appeal shall be taken than that contained in the said report. The independent auditor shall also prepare an intelligible summary of said reports, showing the fiscal condition of the affairs of the city, and post one copy of said summary in a conspicuous place in the City Hall.

§ 10.03 Compensation.

The City Council shall set the compensation through an approved contract.

ARTICLE XI

BUDGET AND FINANCE

§ 11.01 Fiscal Year.

The fiscal year of the City shall commence on the first day of January and conclude on the last day of December of each year.

§ 11.02 Budget.

The City Administrator shall be responsible for the preparation of the annual budget and shall present to the City Council the proposed budget of the next fiscal year by no later than October 31.

The budget shall be a complete financial plan and shall consist of all funds, taxes, anticipated revenues and expenditures. The budget shall be balanced. The budget shall include the tax levies necessary to produce anticipated revenues.

The budget format shall be detailed within the Administrative Code.

§ 11.03 Adoption.

The budget shall be available for public inspection for at least thirty (30) days prior to final adoption after the initial presentation. Upon the lapsing of the thirty (30) days public inspection period, but not later than December 31 of the year in which the proposed budget is submitted, City Council shall adopt the budget by ordinance with or without amendment. City Council may add to, delete from, increase or decrease any appropriation item in the budget. No amendment to the budget shall increase authorized expenditures to an amount greater than the total of estimated income and cash reserve unless action is also taken to increase revenue to such a level. No amendment shall change expenditures required by law or collective bargaining agreements or for debt service or for any estimated unpaid obligations. The adopted budget shall become effective on January 1 of the following year.

§ 11.04 Failure to Adopt.

If the City Council fails to adopt a budget on or before December 31 of the year in which the budget is submitted, the proposed budget as submitted by the City Administrator shall be deemed approved.

Funds for the proposed expenditures shall stand appropriated to the same extent as if favorable action thereon had been taken by the City Council.

§ 11.05 Fiscal Year Amendments.

During the month of January next following any municipal election, the City Council may amend the adopted current budget, levy and tax rate. A period of ten days' public inspection at the office of the City Administrator of the proposed amended budget, after notice by the City Administrator to that effect is published once in a newspaper of general circulation in the City, shall intervene between the presentation of the proposed amended budget and the final adoption of the amended budget. Any amended budget must be adopted by the City Council on or before the first day of March.

During any year, the City Council may by resolution make supplemental appropriations for any purpose from any funds on hand or estimated to be received within the fiscal year and not otherwise appropriated, including the proceeds of any borrowing authorized by law. Supplemental appropriations may be made whether or not an appropriation for that purpose was included in the original budget as adopted.

The City Council may by resolution transfer unencumbered moneys from one City account to another. Any transfer up to ten percent of the unencumbered account shall be by resolution and any transfer greater than ten percent of the unencumbered account shall be by ordinance; but no moneys may be transferred from a fund allocated for the payment of debts or from any fund raised by a special tax levy or assessment for a particular purpose.

§ 11.06 Taxation.

- A. The City shall not increase all sources of general fund revenues by more than one hundred-ten percent (110%) of the preceding year. Revenues shall be construed as all taxes, fees and regular income and shall not include grants, one-time sources, proceeds from the sale of assets, sewer fees, and other restricted revenues. The revenues shall not exceed one hundred-ten percent (110%) of the preceding year unless the City Council by majority vote of the whole, which shall be three (3), shall, upon due cause shown by resolution, petition the Court of Common Pleas, in which case the court may order that revenues may exceed one hundred-ten percent (110%) of the preceding year for one year and those additional revenues shall not be used to determine the one hundred-ten percent (110%) ceiling for the succeeding year.
- B. The one hundred-ten percent (110%) revenue cap shall be effective for the 2014 budget and shall not be applied for the 2013 budget.
- C. City Council shall have all taxing authority under this Charter and the Pennsylvania Home Rule Charter and Optional Plans Law, Act 62 of 1972, effective immediately upon adoption of this Charter for the preparation and adoption of the 2013 Budget. Any tax rate changes made under this authority shall not be effective prior to January 2, 2013. Council shall further have the ability to amend the 2013 budget until March 1, 2013.
- D. The City shall enact a Homestead Exemption by ordinance pursuant to the Homestead Exemption Law of the Commonwealth of Pennsylvania.

§ 11.07 Emergency Appropriations.

Emergency appropriations are permitted when there is an imminent threat to public safety.

§ 11.08 Payment of Funds.

No payment shall be made or obligation incurred against any appropriation unless there is a sufficient unencumbered balance in such appropriation. No payment of any funds of the City shall be made except upon approval of the City Council for disbursement by the City Administrator or their designee. The City Administrator shall be responsible for the preparation of checks or drafts of the City for approval by the City Council. In order to be valid, all checks and/or drafts of the municipality shall bear the signature of two (2) of the officials of the City hereinafter designated from time to time by the City Council.

§ 11.09 Lapse of Appropriations.

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished, but it shall lapse if three (3) years pass without any disbursement from or encumbrance of the appropriation.

§ 11.10 Comprehensive and Long Range Plan

The City shall be required to draft a comprehensive long-range plan setting forth a plan for public services, community and economic development, future land use, capital improvements and fiscal policy based upon the current conditions, forecasted trends and desired goals and objectives of the City. A detailed description of the scope of the plan shall be included in the Administrative Code.

All planning ordinances, such as the Subdivision and Land Development Ordinance, Zoning Ordinance, Floodplain Ordinance and all other related ordinances shall be updated in accordance with the City's Comprehensive Plan.

§ 11.11 Accounting System.

The City Administrator shall be responsible for the City's accounting system. A complete description of the accounting system shall be detailed in the Administrative Code and at a minimum the City's accounting system shall conform to General Accepted Accounting Principles (GAAP).

ARTICLE XII

GENERAL PROVISIONS

§ 12.01 Rights and Liabilities of the City.

Pittston City shall own, possess, and control rights to property of every kind owned, possessed or controlled by Pittston City when this Charter takes effect. It shall be subject to all debts, liabilities, and duties prior to the Charter taking effect.

§ 12.02 Amendment.

This Charter may be amended as provided by the Pennsylvania Home Rule Charter and Optional Plans Law, Act 62 of 1972, as amended from time to time, or as otherwise provided by law.

§ 12.03 Definitions and Rules of Construction.

- A. Where a public hearing is required by this Charter or by ordinance, it shall consist of a special meeting held by the City Council, at which there will be only one order of business, and at which the public shall be permitted to speak on the subject specified.
- B. Public notice of the schedule of regular meetings shall be given once for each calendar year, and shall show the regular dates and times for meetings and the place at which meetings are held and shall be advertised in the same manner as an ordinance specified in § 2.12.

- C. Adoption of an ordinance occurs when City Council has formally voted to adopt said ordinance by majority vote at a public meeting.
- D. Enactment of an ordinance occurs when it is adopted by the City Council and signed by the designated signatories and the effective date of the ordinance is reached.
- E. Applicable law and applicable laws shall refer to those laws of the United States of America and/or the Commonwealth of Pennsylvania that the City of Pittston is required to observe and adhere to in the exercise of its home rule powers.
- F. Charter shall mean the Home Rule Charter of the City of Pittston.
- G. Days shall mean calendar days unless business days are specifically referenced. A calendar day is any day including a Saturday, Sunday and legal Holiday. If action is required on a calendar day that is not a City business day, action shall be required by the next business day, which shall mean any day not Saturday, Sunday or legal Holiday.
- H. An elector is a person who is legally qualified and eligible to vote, having met the age, residency and registration requirements as set forth by law.
- I. The singular shall be construed to be the plural whenever the context shall require and the plural shall be construed to be the singular whenever the context shall require.

§ 12.04 Authorities, Boards, Commissions and Committees.

There shall be such authorities, boards, commissions and committees as shall be established from time to time by applicable state law or by action of the City Council and/or Mayor. Appointments shall be made as provided in Article VII of this Charter. City Council shall have sole discretion of appointees to any authority, board, commission or committee unless a uniform state law applies and that shall prevail.

§ 12.05 Departments and Direction.

The City Council may establish departments, offices or agencies, in addition to those created by this Charter and may prescribe the functions of all departments, offices and agencies, except that no function assigned by this Charter to a particular department, office or agency may be discontinued or, unless this Charter specifically so provides, assigned to any other.

The City Administrator shall direct and supervise all departments, offices, agencies and employees unless otherwise expressly stated differently in this Charter. The City Administrator may, with the consent of the City Council, appoint an officer, who is subject to the City Administrator's direction and supervision, to assist in the supervision and direction of all departments, offices, agencies and employees.

§ 12.06 Failure to Comply with Charter.

Any official, employee or agent who fails to comply knowingly or unknowingly with any provision, clause, section, or article of this Charter commits a summary offense and shall, upon conviction, be sentenced to pay a fine not exceeding one hundred dollars (\$100) plus costs of prosecution.

If the court determines that an official, employee or agent willfully or with wanton disregard violated a provision, clause, section or article of this Charter, the court shall award the prevailing party reasonable attorney fees and costs of litigation or an appropriate portion of the fees and costs that shall be the official's, employee's or agent's personal responsibility to pay. If the court finds that the legal challenge was of a frivolous nature or was brought with no substantial justification, the court shall award the prevailing party reasonable attorney fees and costs of litigation or an appropriate portion of the fees and costs.

§ 12.07 Severability.

If any Article, Section, Subsection, sentence, clause or phrase in this Charter shall be held unconstitutional, invalid, or inapplicable by any court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the remainder of this Charter.

ARTICLE XIII

ADMINISTRATIVE CODE

§ 13.01 Procedure for Adoption.

Within twelve (12) months after the effective date of this Charter, the Transition Committee shall propose an administrative code for the City government consistent with the provisions, spirit, and purpose of this Charter. City Council shall be responsible for final adoption of the administrative code. At any time, and from time to time, the City Council may adopt, by ordinance, amendments to the administrative code.

§ 13.02 Provisions.

The administrative code shall set forth the organization and administrative structure, and procedures of the City government and shall include, among other things, an enumeration of departments, offices and other administrative units of the City government and the division of powers among them; the internal procedures for their operations; the duties of the department heads and their relationship to the City Administrator and/or the Mayor and City Council.

In addition, the administrative code shall, at all times, make adequate and specific provisions for, but not be limited to, the following:

- A. Code of Ethics
- B. Conflict of Interest
- C. Personnel Policy
- D. Procurement Policy
- E. Competitive Bidding Process
- F. Scope of the Comprehensive Long Range Plan
- G. And any other policies, rules, regulations, and procedures necessary and desirable to the efficient administration of the City.

ARTICLE XIV

TRANSITION

§ 14.01 Nature of Article.

The provisions of this Article shall relate to the transition from the City of Pittston's existing form of government (Third Class City) to the form of government provided in this Charter. The provisions of this Article shall constitute temporary exceptions thereto.

§ 14.02 Election to Adopt Charter.

This Charter shall be submitted to a vote of the electors of Pittston City at the general election to be held on the sixth (6th) day of November 2012. The affirmative vote of a majority of those voting on the proposed Charter shall be sufficient for its adoption.

§ 14.03 Effective Date of the Charter.

This Charter shall, upon approval by referendum in the manner provided by law, become effective as of January 2, 2013.

§ 14.04 Continuity.

All ordinances, resolutions, rules and regulations, which are in force at the time this Charter becomes effective and are not inconsistent with the provisions of this Charter shall continue in force until amended or repealed. Unless forbidden by the Constitution of the Commonwealth of Pennsylvania or an Act of the General Assembly of Pennsylvania, all laws relating to or affecting this City or any of its divisions, agencies, offices, departments, or employees, which are in force when this Charter becomes effective, are superseded to the extent that they are inconsistent or

interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto.

All City departments, units, offices, agencies, authorities, boards, commissions and committees shall continue to exercise the powers conferred upon them, unless modified by the provisions of this Charter or by action taken hereunder.

§ 14.05 Authority of Existing Elected Officials.

All elected officials in office at the time this Charter becomes effective shall remain in office for the full term to which they were elected and they shall assume the duties, powers and responsibilities of their respective offices as set forth in this Charter.

§ 14.06 Transition Committee

Upon approval of this Charter by the voters of Pittston City, a Transition Committee shall be formed to help ensure that necessary and desirable transitional activities are successfully completed to the ends that this Charter shall become fully operational on its effective date resulting in a smooth, orderly, and seamless transition from the City's existing form of government to the form provided under this Charter.

The Transition Committee shall be comprised of the seven (7) members of the Government Study Commission, one of whom shall be designated as the Chair of the Committee.

Any vacancy on the Transition Committee shall be filled by a majority vote of the remaining members of the Transition Committee. Any person filling a Transition Committee vacancy shall be an elector of the City of Pittston.

§ 14.07 Transition Powers and Procedures

The Transition Committee shall have the following powers and duties:

- A. Shall be responsible for drafting the Administrative Code, Code of Ethics, Conflict of Interest, Personnel Policy, Procurement Policy, Competitive Bidding Process and any other policy, rule, regulation and procedure that is necessary or desirable to advance the efficient transition of the administration of the City under the Charter.
- B. Shall engage in other activities it deems appropriate for ensuring transitional activities are successfully completed.
- C. Shall complete all tasks and responsibilities by December 31, 2013 and the Transition Committee shall be dissolved on said date.
- D. Members of the Transition Committee shall serve in their capacity without compensation.

§ 14.08 Officers and Employees.

- A. Nothing in this Charter, except as otherwise specifically provided, shall affect or impair the rights or privileges of persons who are City elected officials or employed by the City under the terms of a collective bargaining agreement at the time this Charter is adopted; and nothing shall diminish the rights or privileges of any former employee or any present employee relative to their pension or retirement benefits.
- B. Employees holding a municipal position on the effective date as well as the adoptive date of this Charter shall not be subject to competitive tests as a condition for continuance in the same position, but in all other respects such employees shall be subject to the personnel policy and other sections provided for in this Charter.
- C. The City Manager/Clerk holding that position on the effective and adoptive date of this Charter shall become the City Administrator with the full duties, responsibilities and powers as outlined in this Charter.
- D. Members of authorities, boards, commissions or committees in office at the time this Charter takes effect shall remain in office for as long as their respective terms of appointment shall continue, unless and until an authority, board, commission or committee shall be abolished, combined with another, or reconstituted, pursuant to this Charter, in which the case the members thereof shall vacate their respective offices upon written notice.

§ 14.09 Administrative Organization.

Subject to provisions of this Charter and until the effective date of the administrative code, the City Administrator with consent of the City Council shall have the authority to provide for the issuance of written directives for the administration of the City government in such a manner as the City Administrator and City Council shall deem necessary for the most efficient operation of the City. All directives shall be copied to the Transition Committee upon issuance.

§ 14.10 Personnel Actions.


Subject to provisions of this Charter and until the effective date of the personnel policy required by Article XV of this Charter, the City Administrator shall have the authority to establish by written directive a personnel policy for City employees with regard to the hiring, discharging, disciplining and promotion of such employees. All personnel actions shall be made on the basis of merit and in accordance with the provisions of said personnel policy established by written directive. A copy of the directive shall be copied to the Transition Committee and the City Council upon issuance.

§ 14.11 2013 Budget.

- A. The one hundred-ten percent (110%) revenue cap instituted in §11.06(A) shall not be effective for the 2013 budget and shall be applied initially for the 2014 budget.
- B. City Council shall have all taxing authority under this Charter and the Pennsylvania Home Rule Charter and Optional Plans Law, Act 62 of 1972, effective immediately upon adoption of the Charter for the preparation and adoption of the 2013 Budget. Any tax rate changes made under this authority shall not be effective prior to January 2, 2013. City Council shall further have the ability to amend the 2013 budget until March 1, 2013.

This is certified to be a true and correct copy of the Recommended Home Rule Charter as approved by the Pittston City Government Study Commission at its meeting held on August 27, 2012, for submission to the voters of Pittston City at the general election to be held on November 6, 2012.

PITTSTON CITY GOVERNMENT STUDY COMMISSION

JASON KLUSH, CHAIRPERSON 

GINGER A. MURPHY, VICE-CHAIRPERSON 

ART BOBBOUINE, TREASURER 

MICHAEL A. LOMBARDO 

JOE CHERNOUSKAS 

FRED STUCCIO 

BENJAMIN TIELLE 

Alan Baranski, AICP, Vice-President and Joe Chacke, Government Services Manager of the Northeastern Pennsylvania Alliance served as the Commission's Professional Consultant.

Gino Ardo served as the Commission's Recording Secretary.
Attorney Michael Butera served as the Commission's Solicitor.